

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO**

KAREN MARCELLINO

Plaintiff,

v.

GEAUGA COUNTY HUMANE SOCIETY,  
INC., ET AL.

Defendants.

CASE NO: 1:19-cv-459

JUDGE DAN AARON POLSTER

**PLAINTIFF KAREN MARCELLINO'S  
60(b) MOTION FOR RELIEF FROM ORDER**

Plaintiff Karen Marcellino, by and through her attorneys, hereby respectfully requests this Honorable Court re-open the above captioned case. This Motion is brought pursuant to the Federal Rules Civil Procedure, R. 60(b)(2) and (6).

As instructed by this Court, Marcellino attempted to intervene in Bianca Marcellino's criminal case. On Friday, March 1, 2019 she filed an Emergency Motion to Intervene, and on Saturday, March 2, 2019, she filed an Amended Emergency Motion to Intervene.<sup>1</sup> On Monday, March 4, 2019, Chardon Municipal Court Judge Stupica denied Karen Marcellino's emergency motions to intervene,<sup>2</sup> and on March 5, 2019, Judge Stupica sentenced Bianca Marcellino.<sup>3</sup> As part of that criminal sentence, Judge Stupica ordered Karen Marcellino's horses to be forfeited to Geauga County Humane Society.

If the Court still feels it lacks jurisdiction, or that it would be improper to stay the state court, notwithstanding the constitutional issues, alternatively, Karen Marcellino would ask that,

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<sup>1</sup> Exhibits A & B.

<sup>2</sup> Ex. C.

<sup>3</sup> Ex. D.

until this Court considers Karen's Motion for injunctive relief, it enjoin the private non-profit organization Geauga County Humane Society, which obtained forfeiture of the horses yesterday at Bianca's sentencing, from transferring, giving, adopting, selling, killing, or otherwise disposing in any other way, the horses, and require Geauga County Humane Society to provide all necessary care as is required to maintain the horses in a healthy condition.

A Memorandum in Support is attached hereto and incorporated herein.

Respectfully submitted,

/s/ Michela Huth  
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/s/ Richard Rosenthal  
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*Attorney for Plaintiff*

### **CERTIFICATE OF SERVICE**

I hereby certify that on March 5, 2019, a copy of the above Motion, Memorandum in Support, and attachments was sent by email to Geauga County Humane Society, Christian Courtwright, and Does 1-200's attorney Bridey Matheney at bmatheney@tddlaw.com, and Defendant Bianca Marcellino's attorney, Gregory Sasse, at gregory.sasse@yahoo.com.

/s/ Michela Huth  
MICHELA HUTH

### MEMORANDUM IN SUPPORT

On March 1, 2019, this Court dismissed Marcellino's case,<sup>4</sup> finding "that the Court does not have jurisdiction over this case and the case is premature." This Court also stated that Judge Stupica "must determine who owns the two horses at Bianca's sentencing before ordering their forfeiture and Karen will have the opportunity to assert her interest in the horses."

As instructed by this Court, Marcellino attempted to intervene in Bianca Marcellino's criminal case. On Friday, March 1, 2019 she filed an Emergency Motion to Intervene,<sup>5</sup> and on Saturday, March 2, 2019, she filed an Amended Emergency Motion to Intervene.<sup>6</sup> On Monday, March 4, 2019, Chardon Municipal Court Judge Stupica denied Karen Marcellino's emergency motions to intervene,<sup>7</sup> and on March 5, 2019, at 10:00 a.m., Judge Stupica sentenced Bianca Marcellino.<sup>8</sup> As part of that criminal sentence, Judge Stupica ordered Karen Marcellino's horses to be forfeited to Geauga County Humane Society.<sup>9</sup>

The state court relief, which this Court believed should have been available to Karen, was not obtainable, despite her attempts to intervene. Based upon the above, Karen requests this Honorable Court reconsider its dismissal of this case.

Respectfully submitted,

/s/ Michela Huth  
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PO Box 17

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<sup>4</sup> Doc #4.

<sup>5</sup> Ex. A.

<sup>6</sup> Ex. B.

<sup>7</sup> Ex. C.

<sup>8</sup> Ex. D. Plaintiff has asked the state court clerk to email her the sentencing judgments, but this has not occurred at the time of the filing. At this time she only has only been able to obtain one of the two sentencing judgments, and she will submit, as a supplement, the second sentencing judgment as soon as she obtains it.

<sup>9</sup> *Id.*

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*Attorney for Plaintiff*

**CERTIFICATE OF SERVICE**

I hereby certify that on March 6, 2019, a copy of the above Motion and attachments was sent by email to Geauga County Humane Society, Christian Courtwright, and Does 1-200's attorney Bridey Matheney at bmatheney@tddlwa.com, and Defendant Bianca Marcellino's attorney, Gregory Sasse, at gregory.sasse@gmail.com.

/s/ Michela Huth  
MICHELA HUTH